

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY OF  
ILLINOIS

Petition for a Certificate of Public Convenience  
and Necessity, pursuant to Section 8-406.1 of  
the Illinois Public Utilities Act, and an Order  
pursuant to Section 8-503 of the Public Utilities  
Act, to Construct, Operate and Maintain a New  
High Voltage Electric Service Line and Related  
Facilities in the Counties of Adams, Brown,  
Cass, Champaign, Christian, Clark, Coles,  
Edgar, Fulton, Macon, Montgomery, Morgan,  
Moultrie, Pike, Sangamon, Schuyler, Scott and  
Shelby, Illinois.

Docket No. 12-0598

**PETITION FOR INTERLOCUTORY REVIEW OF STOP THE POWER LINES  
COALITION**

Stop the Power Lines Coalition (Coalition), petitions the Illinois Commerce Commission (Commission), pursuant to Section 200.520 of the Commission's Rules of Practice, for Interlocutory Review of the Administrative Law Judges (ALJ's) December 31, 2013 Notice of Administrative Law Judge's Ruling in which the ALJ's denied the Coalition's Motion to Amend Case Management Plan to Either Eliminate the December 31, 2012 Filing Requirements or to Extend the Time for the Same (Motion). In support of its petition, the Coalition states:

1. In the ALJ's December 14, 2012 Case Management Plan Order, the ALJ's directed as follows:

Staff and any Intervenor identifying alternative routes on December 31, 2012 must provide names and addresses of affected landowners if such landowners are not already affected by either ATXI's primary or alternative route. The names and addresses must be same as those obtained from the records of the tax collector of the county in which the land is located.

\* \* \* \* \*

If Staff or an Intervenor proposes an alternative route on December 31, 2012 and later decides to abandon that proposed alternative

route, it is free to rescind its recommendation. But upon doing so, it may not propose another new alternative route affecting previously unidentified landowners.

Dec. 14, 2012 Case Management Plan Order at 4.

2. On December 26, 2012, the Coalition filed its Motion that is the subject of this petition. For the Commission's convenience, a copy of the Motion is attached as Exhibit 1. The Motion sought to either eliminate the requirement altogether that Staff and Intervenors file notice of alternate plans and identify affected landowners, or extend the deadline until February 11, 2013, when Staff and Intervenor direct testimony is due.

3. The Motion was based on the following arguments:

- The statutory burden of proof is on the Petitioner under 220 ILCS 5/8-406.1 to prove that its proposal for the 345 kV transmission satisfied the statutory criteria. The Public Utilities Act does not require Staff or Intervenors to plan alternate routes for the 8-406.1 petitioner, Ameren Transmission Company of Illinois (ATXI), or to identify landowners who might be affected by alternative routes.
- Given that ATXI admitted that it and its parent corporation and affiliates have been planning this line for eight years, it was inappropriate and unfair for the ALJ's to require Staff and Intervenors to identify alternative routes and affected landowners:
  - + Less than two months after ATXI filed its petition;
  - + With only seventeen days notice, from December 14 to December 31, which spanned the holiday season; and
  - + For good cause as reflected in the supporting affidavit of Coalition member Peggy Mills, the Coalition was unable to meet the December 31, 2012 deadline.

4. The Coalition's motion was supported in the responses of four Intervenors. It was opposed only by ATXI.

5. In a December 31, 2012 Notice of Administrative Law Judge's Ruling, the ALJ's denied the Coalition's Motion without addressing the merits of the Motion. The ALJ's December 31, 2012 Order to which this interlocutory appeal is addressed stated simply:

In the absence of any statutory change regarding projects of this magnitude, the statutory deadline does not permit the time to address movant's concerns.

6. On January 7, 2013, only days after ATXI objected to giving the Coalition additional time to plan alternate routes and notify affected landowners, ATXI filed its own motion seeking additional time to notify affected landowners, which ATXI styled as ATXI's Motion for Leave to File Amended Landowner List and Order Directing the Clerk to Issue Notice to Certain Landowners. ATXI's motion was granted by the ALJ's on January 16, 2013, but their order indicated that ATXI's Petition would be deemed completely filed as of January 7, 2013. January 16, 2013 Notice, page 1. The ALJ's January 16, 2013 Order also granted the motion of another party for leave to supplement its list of affected landowners that was originally filed on January 3, 2013.

7. The Coalition filed a motion on January 17, 2013 seeking leave to file *instanter* two alternate routes attached to its motion and for the Clerk to issue notice immediately to the affected landowners identified by the Coalition. If that motion is granted, the Coalition agrees in advance to the withdrawal of this petition for interlocutory appeal.

8. The December 14, 2012 ALJ's Case Management Plan Order exceeds the ALJ's and Commission's statutory authority and, due to the timing and short notice, constitutes an abuse of discretion. The Order should be reversed and the Coalition's Motion granted.

WHEREFORE, the Stop the Power Lines Coalition requests that the filing deadline for identification of alternate routes and identification of affected landowners in the ALJ's December 14, 2012 Case Management Plan Order should be eliminated. In the alternative, the Coalition requests the deadline for the filing of alternate routes and identification of affected landowners be extended to February 11, 2013, or such earlier date as the Commission deems

appropriate that would allow the Coalition's alternate routes to be considered that were described in its January 17, 2013 motion.

Respectfully submitted,

Dated: January 22, 2013

STOP THE POWER LINES COALITION

/s/ Edward R. Gower

Edward R. Gower  
One of Its Attorneys

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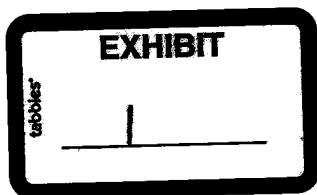
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Docket No. 12-0598

**MOTION TO AMEND CASE MANAGEMENT  
PLAN TO EITHER ELIMINATE THE  
DECEMBER 31, 2012 FILING REQUIREMENT  
OR TO EXTEND THE TIME FOR SAME**

Stop the Power Lines Coalition (the "Coalition"), by its attorneys, Hinshaw & Culbertson LLP, moves to amend the Case Management Plan to either eliminate the December 31, 2012 filing requirement or to extend the time for such filing until February 11, 2013, when Staff and Intervenor Direct Testimony is due. In support of its motion, the Coalition submits the Affidavit of Peggy Mills, attached as Exhibit 1. In further support of its motion, the Coalition states:

1. The schedule set forth in Section IV of the Case Management Plan Order issued by the Administrative Law Judges on December 14, 2012 requires Staff and Intervenors to make a filing by December 31, 2012 that identifies the alternative routes they propose for Ameren's 345 kV transmission line proposal (the "Proposed 345 kV Transmission Line") that is the subject of this proceeding. The Case Management Plan states on page 4 that:



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Staff and any Intervenor identifying alternative routes on December 31, 2012 must provide names and addresses of affected landowners if such landowners are not already affected by either ATXI's primary or alternative route. The names and addresses must be same as those obtained from the records of the tax collector of the county in which the land is located.

2. In its Direct Testimony, the Petitioner, Ameren Transmission Company of Illinois ("ATXI") admitted that its parent company and its multiple affiliates have been planning this project for 8 years. [Direct Testimony of M. Borkowski, ATXI Ex. 1.0 at 6:115-117.] But under the Case Management Plan, any Staff or Intervenor witness who may testify that the Proposed 345 kV Transmission Line should be located other than on ATXI's primary or alternative route has less than two months from ATXI's petition was filed in which to redesign the route and identify all affected landowners, or their testimony concerning potential alternative routes will be barred. That is unfair, inappropriate and quite possibly would be a reversible error if the Commission actually affirmed barring testimony on that ground.

3. The Coalition recognizes that it is possible that in other transmission line proceedings governed by Section 8-406 of the Public Utilities Act ("Act"), 220 ILCS 5/8-406, the Staff and Intervenor may have been required to identify landowners on proposed alternative routes. In contrast, Ameren chose to file this case under the expedited procedures of Section 8-406.1 of the Act, 220 ILCS 5/8-406.1. The rights of Staff and Intervenor to give ATXI's proposed routes full and thoughtful examination ought not be forfeited because Ameren chose to pursue expedited approval rather than filing under the normal procedures of Section 8-406 of the Act.

4. Under the Act, it is ATXI, not Staff and Intervenor, who bears the burden of proof and has the duty to prove that the Proposed 345 kV Transmission Line satisfies the statutory criteria. Pursuant to Subsection 8-406.1(f), it is ATXI's burden to persuade the

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Commission that based upon the application and the evidentiary record “the Project will promote the public convenience and necessity.” *Id.* 5/8-406.1(f). In addition, one of the other criteria that ATXI must prove to the satisfaction of the Commission is:

(1) That the Project is necessary to provide adequate, reliable and efficient service to the public utility’s customers and is the least-cost means of satisfying the service needs of the public utility’s customers or that the Project will promote the development of an effectively competitive electricity market that operates efficiently, is equitable to all customers, and is the least cost means of satisfying those objectives.

*Id.* 5/8-406.1(F)(1).

5. In the 8 years that ATXI, its parent and its affiliates have been studying this project, they presumably have eliminated routes that were imprudent or impractical; have identified the potential routes that were feasible; and have narrowed the feasible routes to the two that they thought best met the applicable statutory criteria. Thus, ATXI, its parent who is funding the project, and its subsidiaries who will be responsible for designing, constructing, and operating it, presumably have analyzed all possible routes and should be prepared to readily respond to any alternative route that might be proposed based on their prior analysis.

6. The Coalition recognizes that because part of the statutory criteria requires a comparative cost analysis, it may be in the interests of Staff and Intervenors to ultimately identify the landowners along alternative routes to make the comparative analysis easier to perform. But that does not translate into a legal obligation to propose and plan alternative routes. If there are costs, environmental problems or other negative factors that are part of the evidence in this proceeding and call into question the validity of ATXI’s route selection, the evidentiary burden still rests with ATXI to prove that its proposal is the least cost alternative that satisfies all other statutory criteria. Telling Staff and Intervenors that they have to plan the route for the

Proposed 345 kV Transmission Line and identify all affected landowners if they do not like the two routes proposed by ATXI, or be barred from proposing an alternative route, simply is not supported by the statutory structure or language.

7. If the Administrative Law Judges continue to believe that Staff and Intervenor should be required to plan and identify landowners on alternate routes, then as illustrated in more detail in the attached Affidavit of Peggy Mills, to require completion of that analysis less than two months after the Petition was filed is not practical. That is particularly true when the notice of the requirement is contained in an order issued in the afternoon of December 14, leaving only 17 days, including the intervening holidays, to identify the proposed alternative route and all the affected landowners. To the extent any such requirement is imposed, the Staff and Intervenor should be required to fulfill the requirement when they file this direct testimony on February 11, 2013.

8. The coalition appreciates the Administrative Law Judges' concern and interest in protecting the rights of landowners who could be affected if a route is approved that is neither Petitioner ATXI's primary or alternative route. As a practical matter, it does not matter whether such a landowner receives notice two months after the Petition was filed or slightly more than three months after the Petition was filed. They will not be able to effectively intervene and protect their rights in this proceeding. If the Commission concludes that a route other than ATXI's proposed primary or alternative route is the route that best meets the statutory criteria, the proper procedure would be to deny the affected part of ATXI's petition and, if ATXI chooses to do so, ATXI can file a new proceeding, pursue an alternative route and give the requisite notice to affected landowners so that they have adequate time for a meaningful response.



WHEREFORE, Stop the Power Lines Coalition requests that an amended case management plan order be issued that eliminates the December 31, 2012 filing date for Staff and Intervenor to identify alternative routes and affected landowners. In the alternative, the Coalition requests that an amended case management plan order be issued that requires Staff and Intervenor to identify alternative routes and affected Landowners, in their Direct Testimony in this proceeding to be filed on February 11, 2013.

Respectfully Submitted,

STOP THE POWER LINES COALITION

/s/ Edward R. Gower

Edward R. Gower  
One of Its Attorneys

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**AFFIDAVIT OF PEGGY MILLS**

1. My name is Peggy Mills. If called to testify in this proceeding, I could and would testify to the following facts based on my personal knowledge.

2. I am a founding member and one of the organizers of the Stop the Power Lines Coalition ("Coalition.") The coalition is comprised of landowners in Clark County who will be adversely affected if the proposed 345 kV Transmission were constructed along the proposed primary route.

3. The Coalition began its search for counsel shortly after the Petition in this proceeding was filed on November 7, 2012. That took some time, and, while we have retained counsel, we are still in the process of raising the funds through contributions to pay for the legal fees associated with our representation.

4. Our counsel was on vacation when the Case Management Plan was issued via email in the afternoon of Friday, December 14. The Coalition did not receive notice of the Case



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Management plan contents until Monday, December 17, when advised by counsel who also forwarded a copy of the Plan.

5. It is not practical for the coalition to agree upon an alternative route for the proposed transmission and identify all affected landowners in the two weeks before the end of the year, which span Christmas and the intervening week prior to New Year's Day. The Coalition intends to make decisions by majority rule, and we are largely dependent on volunteer efforts and analysis. It is not practical or reasonable to expect us to complete the required analysis between December 17 and December 31, vote on the proposed route and identify the affected landowners. Put simply, our volunteers and members are focused in part on preparations, family events and potential travel during the holidays. Furthermore, for a group of this type, two weeks would not be enough time even if it did not include the Christmas holiday and week before the New Year.


6. Furthermore, the holidays are a problem in communicating with others. For example, one idea that the Coalition is exploring is possibly trying to route the transmission line within the right of way of Interstate 70. The Illinois Department of Transportation ("IDOT") owns that right of way, and has administrative rules governing the location of utilities in interstate right of way. It took our counsel two days to obtain a clarification from IDOT of its rules. The issues, as I understand, among others include the issue of whether there is sufficient right of way outside the access control area to accommodate and service the proposed transmission line. While I could be surprised, I suspect that with IDOT employees' vacation schedules there is absolutely no way we can obtain information from IDOT and do the requisite analysis by December 31. Furthermore, if we spend our time on that option and it proves to not be feasible, we will not have adequate time to explore other alternatives.

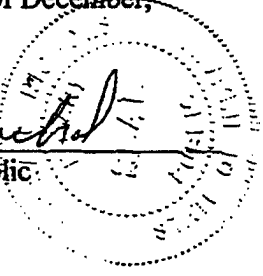
7. The Coalition simply cannot explore all potentially feasible alternatives and meet the December 31, deadline.

FURTHER AFFIANT SAYETH NOT.

  
Peggy Mills

Subscribed and Sworn to before me a Notary Public this 26 day of December,  
2012.

  
Notary Public



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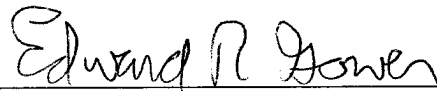
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**AFFIDAVIT OF EDWARD R. GOWER**

1. My name is Edward R. Gower. I am counsel for Intervenors, Stop the Power Lines Coalition ("Coalition"), in this matter.
2. I have personal knowledge of the facts set forth in the Petition for Interlocutory Review that is being filed by the Coalition. If called to testify in this proceeding, I could and would testify competently based on personal knowledge that the facts set forth in this Petition are true and correct.

FURTHER AFFIANT SAYETH NOT.



EDWARD R. GOWER

SUBSCRIBED and SWORN to  
before me this 22 day of January, 2013.

